

**2013 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB616)**

Received: 2/19/2014 Received By: pgrant  
Wanted: As time permits Same as LRB:  
For: Thomas Larson (608) 266-1194 By/Representing: Matt Pulda  
May Contact: Drafter: pgrant  
Subject: Education - school boards Addl. Drafters:  
Extra Copies: TKK  
FFK

Submit via email: YES  
Requester's email: Rep.Larson@legis.wisconsin.gov  
Carbon copy (CC) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Biological identifiers

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pgrant 2/19/2014	kfollett 2/19/2014		_____			
/1			jmurphy 2/19/2014	_____	lparisi 2/19/2014	lparisi 2/19/2014	

FE Sent For:

<END>

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1/?	pgrant	11/5F 2/19	11/5F 2/19	_____	_____	_____	_____
FE Sent For:				Jmtrks 2/19			

<END>

## Grant, Peter

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**From:** Pulda, Matt  
**Sent:** Wednesday, February 19, 2014 8:55 AM  
**To:** Grant, Peter  
**Cc:** Kulow, Chris; drossmiller@wasb.org; Kiefer, Kurt J - DPI; Smith, Donald F - DPI; john.forester@wsaa.org  
**Subject:** FW: New Suggested language for a substitute amendment to AB 616  
**Attachments:** Suggested language for a sub amdt to AB 616 (new).docx  
**Importance:** High

Hi, Peter,

Please draft a new substitute to AB 616 along the lines of the attachment. Please let me know if you have any questions, but also feel free to contact Dan Rossmiller directly if you think that would be helpful. The Assembly education committee would like to exec on AB 616 tomorrow morning.

Thanks!

Matt Pulda  
Research Assistant/Committee Clerk  
Office of State Rep. Tom Larson  
Assembly Committee on Family Law  
(608) 266-1194

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**From:** Dan Rossmiller [<mailto:drossmiller@wasb.org>]  
**Sent:** Tuesday, February 18, 2014 4:12 PM  
**To:** Rep.Larson; Pulda, Matt; Kulow, Chris  
**Cc:** John D. Forester; Kiefer, Kurt J - DPI; Smith, Donald F - DPI  
**Subject:** New Suggested language for a substitute amendment to AB 616

Rep. Larson & Matt,

Attached please find a reworked version of the suggested AB 616 sub. amdt. language I sent you this morning.

Explanation: Upon further review, we have two concerns with the suggested substitute amendment language we provided to Rep. Larson's office that we want to call to your attention. These two potential concerns are addressed in the new attached version.

- 1) We noted that the definition of "biological identifiers" in the earlier version is too broad and too open-ended. As that earlier version was drafted, the definition could arguably include a photograph. Under current law photographs are specifically enumerated as "directory data" (see s. 118.125 (1) (b), Wis. Stats.), which can be released unless parents or guardians object. The definition of "biological identifiers" in the revised version that is attached would not include any photograph, image, or recording of a pupil that the school collects or maintains for a purpose other than the automated recognition of the pupil.
- 2) Additionally, we noted that it might be possible that a Wisconsin school districts could potentially receive information containing a biological identifier of a student that it did not collect. An example of how this could happen would be through a transfer of student records that occurs when, say, a special education student transfers from a district located outside the state of Wisconsin. The new suggested language for the sub.

amdt. would address a circumstance where a school district winds up in possession of such information but was not responsible for its collection.

Thank you for your willingness to work with us to try to resolve our concerns with the bill. Please feel free to contact me if you have any questions or need additional information.

Best regards,

**Dan Rossmiller**

*Government Relations Director*

Wisconsin Association of School Boards (WASB)

122 West Washington Avenue, Suite 400  
Madison, Wisconsin 53703

(608) 512-1720 (Direct line)  
(608) 333-4923 (Cell)  
[drossmiller@wasb.org](mailto:drossmiller@wasb.org)



THURS.  
8 am.



LRB-3694/3

PG:kjf:rs

LRBs 0326/1

PLG: 15f

A. SUBST. AMDT. —  
**2013 ASSEMBLY BILL 616**

January 10, 2014 - Introduced by Representatives T. LARSON, THIESFELDT, KNUDSON, PRIDEMORE, STEINEKE, SCHRAA, BERNIER, BORN, CRAIG, JACQUE, KNOBL, KULP, MURPHY, TITTL and HUTTON, cosponsored by Senators GROTHMAN and LAZICH. Referred to Committee on Education.

1 AN ACT *to create* 118.125 (8) of the statutes; relating to: prohibiting ~~the~~ *collecting*  
2 ~~collection of~~ a pupil's biometric data and the use of any device to assess a pupil's  
3 ~~physiological or emotional state.~~ *biological identifiers*

*reger*

*a school board from*

***Analysis by the Legislative Reference Bureau***

This bill prohibits a school board from collecting any biometric data from a pupil, or from using any device or mechanism to assess a pupil's physiological or emotional state, unless the pupil's parent or guardian consents in writing. Examples of biometric technologies are fingerprint identification, retinal scanning, and hand or palm geometry.

The bill authorizes the attorney general or any district attorney to bring an action in circuit court to enforce the provision described above.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

4 ~~SECTION 1. 118.125 (8) of the statutes is created to read:~~

5 118.125 (8) BIOMETRIC DATA. No school board may collect biometric data from  
6 a pupil, or use any device or mechanism to assess a pupil's physiological or emotional  
7 state, unless the pupil's parent or guardian consents in writing. The attorney

**ASSEMBLY BILL 616**

**SECTION 1**

1 general or any district attorney may bring an action in circuit court for the  
2 enforcement of this subsection, including an action to restrain by temporary or  
3 permanent injunction any violation of this subsection.

4 (END)

Proof changes

~~Proposed~~

Suggested substitute amendment language to Assembly Bill 616

SEC. # CR; 118.125 (1)(am) ✓

118.125 (1) (am) "Biological identifier" means a fingerprint, voice print, retina or iris image, genetic data, or other similar unique biological characteristic of a pupil that ~~a school maintains as a record to be used for the automated recognition of the pupil.~~ "Biological identifier" does not include ~~any~~ <sup>may</sup> a biological photograph, image, or recording of a pupil that the school collects or maintains for a purpose other than the automated recognition of the pupil. <sup>person</sup> ✓

INS. A

SEC. # CR; 118.125 (2) (g)

118.125 (2) (g) 1. A school board ~~shall neither collect a biological identifier from a pupil nor maintain~~ <sup>or maintain</sup> or allow any ~~agent or third party~~ <sup>person</sup> to maintain on behalf of the school board, a record of a biological identifier in a format that is used for the automated recognition of the pupil, unless the school has notified <sup>the</sup> pupil's parent, legal guardian, or guardian ad litem of any biological identifiers that it contemplates collecting with respect to the pupil, has informed the parent, legal guardian, or guardian ad litem that he or she has 14 days to inform the school that all or any biological identifiers of the pupil may not be so collected or so maintained without the prior consent of the parent, legal guardian, or guardian ad litem, and has allowed 14 days for the parent, legal guardian or guardian ad litem ~~of that pupil~~ <sup>board</sup> to inform the school that all or any biological identifiers of ~~that pupil~~ <sup>the</sup> may not be collected or maintained without the prior consent of the parent, legal guardian or guardian ad litem and the parent, legal guardian or guardian ad litem has not so informed the school, the school district clerk, or his or her designee.

of a pupil, or the

board

Notwithstanding par. (g),

2. A school board may not report or disclose <sup>a</sup> any pupil records containing ~~one or more~~ <sup>a</sup> biological identifiers collected under sub. 1 to any state or federal official or agency under sub. (2)(g).

3. A school board may not disclose <sup>a</sup> any pupil records containing ~~one or more~~ <sup>a</sup> biological identifiers collected under sub. 1 to any person, ~~agent of the school board, or service provider~~ <sup>the</sup> who is serving as a school official and who is not an employee of the school board unless such ~~person, agent, or service provider~~ <sup>person</sup> meets all of the following criteria:

subd. 1.

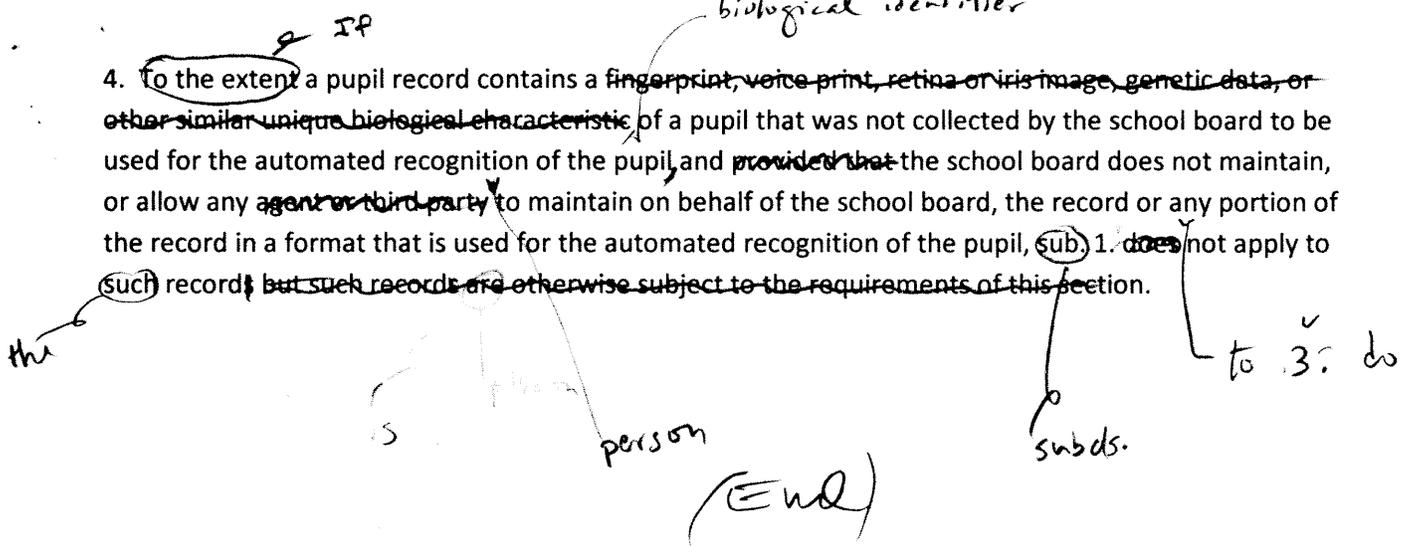
- a. <sup>The person</sup> ~~is~~ <sup>is</sup> under the direct control of the school board with respect to the use and maintenance of the records.
- b. <sup>The person</sup> ~~agrees~~ <sup>agrees</sup> to use the records only for the purposes for which the disclosure was made, and
- c. <sup>The person</sup> ~~agrees~~ <sup>agrees</sup> not to disclose the records to any other <sup>a person</sup> party without the prior consent of the pupil or the parent or guardian ~~of a~~ <sup>of a</sup> minor pupil.

pupil's, if the pupil is a

if the pupil is an adult



4. To the extent a pupil record contains a fingerprint, voice print, retina or iris image, genetic data, or other similar unique biological characteristic of a pupil that was not collected by the school board to be used for the automated recognition of the pupil, and provided that the school board does not maintain, or allow any agent or third party to maintain on behalf of the school board, the record or any portion of the record in a format that is used for the automated recognition of the pupil, sub. 1. does not apply to such records; but such records are otherwise subject to the requirements of this section.



REF

A

Section #. 118.125 (2) (intro.) of the statutes is amended to read:

9  
(9)

118.125 (2) CONFIDENTIALITY AND DISCLOSURE OF PUPIL RECORDS. (intro.) All pupil records maintained by a public school shall be confidential, except as provided in pars. (a) to ~~(p)~~ and sub. (2m). The school board shall adopt policies to maintain the confidentiality of such records and may adopt policies to promote the disclosure of pupil records and information permitted by law for purposes of school safety.

**History:** 1973 c. 254; 1977 c. 418; 1979 c. 205; 1981 c. 20, 273; 1983 a. 189; 1985 a. 218; 1987 a. 27, 70, 206, 285, 337, 355; 1987 a. 399 s. 491r; 1987 a. 403 ss. 123, 124, 256; 1989 a. 31, 168; 1989 a. 201 s. 36; 1989 a. 336; 1991 a. 39, 189; 1993 a. 27, 172, 334, 377, 385, 399, 450, 491; 1995 a. 27 ss. 3939, 3940, 9126 (19), 9130 (4), 9145 (1); 1995 a. 77, 173, 225, 352; 1997 a. 3, 27, 205, 237, 239; 1999 a. 9, 149; 2003 a. 82, 292; 2005 a. 344, 434; 2005 a. 443 s. 265; 2007 a. 20 ss. 2712, 9121 (6) (a); 2009 a. 11, 28, 209, 302, 309; 2011 a. 32, 105, 260.